

REMARKS

As hereinabove noted, amendment to the drawings has been made to properly indicate the Figures 1a and 3a represent prior art as described in the specification.

In addition, the specification has been amended to direct the reader's attention to Figure 2 as the figure showing " α ".

The Examiner has rejected claims 10-19 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In response thereto, the Applicants have cancelled claim 10 and added new independent claim 20. Accordingly, the Examiner's specific rejection of claim 10 is moot.

Claim 20 further defines the claim being in a claw plane and the wedge moving in a wedge plane that is parallel to the claw plane. No new matter has been added inasmuch as this structure is shown in Figures 1b and 2.

With regard to claims 13, 14, and 19, the Applicant has amended these claims to remove the indefiniteness pointed out by the Examiner.

In general, the Examiner has also stated that with regard to claims 11-19, the "turnbuckle device", it does not appear that the disclosure presents any turnbuckle device. The Examiner's attention is respectfully directed to page 11, first full paragraph, wherein the turnbuckle device is 12, 13, and 14 are specifically described.

The Examiner has rejected claims 10-19 under 35 USC 102(b) as being anticipated or, in the alternative under 35 USC 103(a) as being obvious over U.S. 5,078,360 to Spera.

The Applicant submits that anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of the claimed invention. RCA Corp. v. Applied Digital Data Systems, Inc., 221 USPQ 385 (Fed. Cir. 1984); *In re Sun*, 31 USPQ 2d 1451 (CAFC 1993); Advanced Display Systems, Inc. v. Kent State University, 540 USPQ 2d 1673 (CAFC 2000); Eli Lilly v. Zenith Goldline, 810 2d 324 (Fed. Cir. 2006).

In addition, the Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied reference. *Ex Parte Levy*, 17 USPQ 2d 1461 (USPTO Board of Patent Appeals and Interferences 1990).

Further, the Applicant submits that anticipation must meet strict standards and unless all of the same elements are found in exactly the same situation and united in the same way to form identical function in a single prior art reference, there is no anticipation. Tights, Inc. v. Acme-McCary Corporation, et al., 191 USPQ 305 (CAFC 1976).

With this criteria in mind, it is clear that Spera does not teach, disclose, or suggest any wedge. Only a screw is taught and the angle between the plane of the shell skins of the direction of the screw, relating to the claim “guiding direction” is 90°. Accordingly, there is absolutely no disclosure or suggestion of wedges which are positioned and inclined toward a straight line in order to avoid collisions of wedges of neighboring turnbuckle devices as presently claimed. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 11-19 under 35 USC 102(b) on the basis of Spera.

With regard to the obviousness rejection under 35 USC 103(a) on the basis of Spera, the court in KSR International Co. v. Teleflex, Inc., 82 USPQ 2d 1385 (US 2007) stated that the criteria is whether the claimed improvement is more than the predictable use of prior-art elements according to their established functions. Clearly, in view of the

lack of teaching of the Spera under criteria is set forth in the KSR International, a prima facie case of obviousness cannot be established.

Accordingly, the Applicant respectfully requests the Examiner to withdraw the rejection of claims 11-19 under 35 USC 103(a) on the basis of Spera.

Claims 11-19 have been rejected by the Examiner under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as obvious over U.S. 1,552,334 to Mosher. In this rejection, the Examiner states that Mosher shows in Figure 4 a concrete shell system comprising a concrete shell elements and a “turnbuckle device” having two claws, a wedge with the claws being displaceable toward one another in a clamping direction and the wedge being guided in a clamping device along a wedge guiding direction. Considering the criteria hereinabove set forth for meeting anticipation under 35 USC 102(b) it is clear that there is no plane in Mosher in which the shell skins have in common. Accordingly, a prima facie case of anticipation cannot be established.

This argument also applies to the Examiner’s rejection under 35 USC 103(a) on the basis of the Mosher patent. Therefore, the Applicant respectfully requests the Examiner to withdraw the rejection of the claims under 35 USC 102(b) and 35 USC 103(a) on the basis of the Mosher reference.

Claims 11-19 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over French reference 2,738,259. In this reference, it is certainly clear that the wedges are position inclined toward a straight line in order to avoid collision of nearing wedges.

New independent claim 20 clearly distinguishes the present invention over the French reference inasmuch as the claws are defined as being in a claw plane and the wedge defined as moving in a wedge plane that is parallel to the claw plane. Clearly, this distinguishes the present invention from the French reference in which the wedge moves in a direction perpendicular to the claw plane. In view of the fact there is no teaching or

suggestion of this structure by the French reference, the Applicant submits that a prima face case cannot be established for the claims as amended on the basis of the French reference.

In view of the arguments hereinabove set forth and amendment to the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectfully requested.

Respectfully submitted,
/WALTER A. HACKLER/

Walter A. Hackler, Reg. No. 27,792
Attorney of Record
2372 S.E. Bristol, Suite B
Newport Beach, California 92660
Tel: (949) 851-5010
Fax: (949) 752-1925